

IC 16-37-2

Chapter 2. Certification of Births

IC 16-37-2-1

"Person in attendance at birth" defined

Sec. 1. As used in this chapter, "person in attendance at birth" means one (1) of the following:

- (1) A licensed attending physician.
- (2) An attending midwife or nurse midwife.
- (3) Another individual who:
 - (A) holds a license of the type designated by the governing board of a hospital, after consultation with the hospital's medical staff, to attend births at the hospital; and
 - (B) is in attendance at the birth.

As added by P.L.2-1993, SEC.20. Amended by P.L.148-1996, SEC.2.

IC 16-37-2-2

Birth certificate and paternity affidavit; persons responsible for filing or preparation; release of paternity affidavit

Sec. 2. (a) A person in attendance at a live birth shall do the following:

- (1) File with the local health officer the following:
 - (A) A certificate of birth.
 - (B) Any paternity affidavit executed under section 2.1(c)(1) of this chapter.
- (2) Advise the mother of a child born out of wedlock of:
 - (A) the availability of paternity affidavits under section 2.1 of this chapter; and
 - (B) the existence of the putative father registry established by IC 31-19-5-2.

(b) If there was no person in attendance at the birth, one (1) of the parents shall file with the local health officer the following:

- (1) A certificate of birth.
- (2) Any paternity affidavit executed under section 2.1 of this chapter.

(c) If:

- (1) no person was in attendance at the birth and neither parent is able to prepare the certificate; or
- (2) the local health officer does not receive a certificate of birth; the local health officer shall prepare a certificate of birth from information secured from any person who has knowledge of the birth.

(d) A local health department shall inform the Title IV-D agency (as defined in IC 31-9-2-130) regarding each paternity affidavit executed under section 2.1 of this chapter that the local health department receives under this section.

(e) A paternity affidavit executed under section 2.1(c)(1) of this chapter shall be filed with the local health officer not more than five (5) days after the child's birth.

(f) An attorney or agency that arranges an adoption may at any

time request that the state department search its records to determine whether a man executed a paternity affidavit under section 2.1 of this chapter in relation to a child who is or may be the subject of an adoption that the attorney or agency is arranging.

(g) Not more than ten (10) days after receiving a request from an attorney or agency under subsection (f), the state department shall submit an affidavit to the attorney or agency verifying whether a paternity affidavit has been filed under this section. If a paternity affidavit has been filed regarding a child who is the subject of a request under subsection (f), the state department shall release a copy of the paternity affidavit to the requesting attorney or agency.

As added by P.L. 2-1993, SEC.20. Amended by P.L. 100-1994, SEC.2; P.L. 46-1995, SEC.62; P.L. 133-1995, SEC.13; P.L. 1-1997, SEC.92; P.L. 257-1997(ss), SEC.30.

IC 16-37-2-2.1

Paternity affidavits; requirements; forms; penalty; effect of filing paternity affidavit; action to establish paternity

Sec. 2.1. (a) A paternity affidavit may be executed as provided in this section through:

- (1) a hospital; or
- (2) a local health department.

(b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

- (1) provide an opportunity for:
 - (A) the child's mother; and
 - (B) a man who reasonably appears to be the child's biological father;

to execute an affidavit acknowledging paternity of the child; and

- (2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection (g).

(c) A paternity affidavit must be executed on a form provided by the state department. The paternity affidavit is valid only if the affidavit is executed as follows:

- (1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.
- (2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit executed under this section must contain or be attached to all of the following:

- (1) The mother's sworn statement asserting that a person described in subsection (a)(2) is the child's biological father.

(2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.

(3) Written information furnished by the division of family and children:

(A) explaining the effect of an executed paternity affidavit as described in subsection (g); and

(B) describing the availability of child support enforcement services.

(4) The Social Security number of each parent.

(f) A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

(g) A paternity affidavit executed under this section:

(1) establishes paternity; and

(2) gives rise to parental rights and responsibilities of the person described in subsection (e)(2), including the right of the child's mother or the Title IV-D agency to obtain a child support order against the person.

However, if a paternity affidavit is executed under this section, the child's mother has sole legal custody of the child unless another custody determination is made by a court in a proceeding under IC 31-14.

(h) Notwithstanding any other law:

(1) any person listed in IC 31-14-4-1 or IC 31-14-4-3; or

(2) a man who is a party to a paternity affidavit executed under this section;

may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over paternity to request an order for a genetic test.

(i) A paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit.

(j) Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection (g)(2) of a party to the executed paternity affidavit during a challenge to the affidavit.

(k) The court shall set aside the paternity affidavit upon a showing from a genetic test that sufficiently demonstrates that the person who executed the paternity affidavit is excluded as the child's biological father.

(l) If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

As added by P.L.46-1995, SEC.63. Amended by P.L.133-1995, SEC.14; P.L.1-1997, SEC.93; P.L.257-1997(ss), SEC.31; P.L.138-2001, SEC.4.

IC 16-37-2-3**Time for filing birth certificate**

Sec. 3. A certificate of birth shall be filed not more than five (5) days after the birth occurs.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-4**Acceptance of birth certificate within four years of birth with statement of reason for delay**

Sec. 4. A local health officer may accept a certificate of birth presented for filing not more than four (4) years after the birth occurred if the attending physician, midwife, or other person desiring to file the certificate states the reason for the delay in writing. This statement shall be made a part of the certificate of birth.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-5**Delayed birth certificate presented for filing more than four years after birth**

Sec. 5. A certificate of birth presented for filing more than four (4) years after the birth occurred is a delayed certificate of birth and the record shall be filed only with the state department.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-6**Rules for accepting delayed birth certificates**

Sec. 6. The state department shall adopt rules concerning the application for, the supporting documents for, and the acceptance of delayed certificates of birth. The state department shall keep delayed certificates of birth in a file separate from other certificates of birth.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-7**Certificate of birth registration; issuance to delayed birth certificate applicant**

Sec. 7. The state department shall issue a certificate of birth registration without charge to the applicant for a delayed certificate of birth if the state department finds the application is properly executed.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-8**Probative value of delayed birth certificate**

Sec. 8. The probative value of a delayed certificate of birth shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-9**Permanent record; public inspection; adoptee birth records**

Sec. 9. (a) The local health officer shall make a permanent record of the following from a birth certificate:

- (1) Name.
- (2) Sex.
- (3) Date of birth.
- (4) Place of birth.
- (5) Name of the parents.
- (6) Birthplace of the parents.
- (7) The date of filing of the certificate of birth.

(b) Except as provided in subsection (c), the permanent record shall be open to public inspection.

(c) The birth record of an adopted child remains subject to the confidentiality provisions of IC 31-19 regarding the release of adoption information.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.64; P.L.133-1995, SEC.15; P.L.1-1997, SEC.94; P.L.257-1997(ss), SEC.32; P.L.2-1998, SEC.60.

IC 16-37-2-10

"DNA test" defined; additions or corrections to birth certificate; evidence

Sec. 10. (a) As used in this section, "DNA test" means an identification process in which the unique genetic code of an individual that is carried by the individual's deoxyribonucleic acid (DNA) is compared with the genetic codes of another individual.

(b) The state department may make additions to or corrections in a certificate of birth on receipt of adequate documentary evidence, including the results of a DNA test under subsection (c) or a paternity affidavit executed under section 2.1 of this chapter.

(c) The state department may make an addition to a birth certificate based on the results of a DNA test only if:

- (1) a father is not named on the birth certificate; and
- (2) a citation to this subsection as the authority for the addition is noted on the birth certificate.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.65; P.L.133-1995, SEC.16.

IC 16-37-2-11

Custody of children of unknown parentage; reports

Sec. 11. A person who assumes custody of a child of unknown parentage shall report immediately to the local health officer.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-12

Children of unknown parentage; certificates of birth

Sec. 12. The local health officer shall prepare a certificate of birth for a child of unknown parentage. The place where the child was found or where custody was assumed shall be known as the place of birth and the date of birth shall be determined by approximation. If the child is identified or if a regular certificate of birth is found or

obtained, the local health officer shall correct the health officer's records and file a corrected certificate of birth with the state department.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-13

Recorded name of child born out of wedlock

Sec. 13. A child born out of wedlock shall be recorded:

- (1) under the name of the mother; or
- (2) as directed in a paternity affidavit executed under section 2.1 of this chapter.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.66; P.L.133-1995, SEC.17.

IC 16-37-2-14

Duties of health officer regarding paternity affidavit

Sec. 14. If a paternity affidavit executed under section 2.1 of this chapter is filed with a local health officer, the local health officer shall do the following:

- (1) Correct the local record of birth by adding the name of the father to the certificate of birth.
- (2) File a copy of the affidavit with the report required by IC 16-37-1-6.

As added by P.L.2-1993, SEC.20. Amended by P.L.46-1995, SEC.67; P.L.133-1995, SEC.18.

IC 16-37-2-15

Proper name of illegitimate child whose parents subsequently marry

Sec. 15. If the parents of a child born out of wedlock in Indiana later marry, the child shall legally take the last name of the father.

As added by P.L.2-1993, SEC.20.

IC 16-37-2-16

New birth certificate upon marriage of illegitimate child's parents; correction of records

Sec. 16. If a man claiming to be the child's biological father marries the mother of a child born out of wedlock, the man and the mother may produce proof of the marriage and execute a paternity affidavit under section 2.1 of this chapter. The local health officer shall then remove all evidence of the fact that the child was born out of wedlock from the child's record of birth. The proof of marriage and executed paternity affidavit shall be forwarded to the state department by the local health officer. Upon receiving the proof of marriage and executed paternity affidavit, the state department shall make the corrections to the child's certificate of birth.

As added by P.L.2-1993, SEC.20. Amended by P.L.257-1997(ss), SEC.33.

IC 16-37-2-17 Repealed

(Repealed by P.L.257-1997(ss), SEC.41.)

IC 16-37-2-18

Form of new birth certificate

Sec. 18. If a certificate of birth is issued from the record described in section 16 of this chapter, the certificate:

- (1) must include:
 - (A) the full name of the child;
 - (B) the date and place of birth;
 - (C) the name of the father;
 - (D) the maiden name of the mother; and
 - (E) other data required;
- (2) must be uniform in color, size, and content with all other certificates; and
- (3) may not refer to the fact that the child was born out of wedlock.

As added by P.L.2-1993, SEC.20. Amended by P.L.257-1997(ss), SEC.34.

IC 16-37-2-19

Violations

Sec. 19. (a) Except as otherwise provided, a person who recklessly violates or fails to comply with section 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, or 16 of this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

As added by P.L.2-1993, SEC.20.